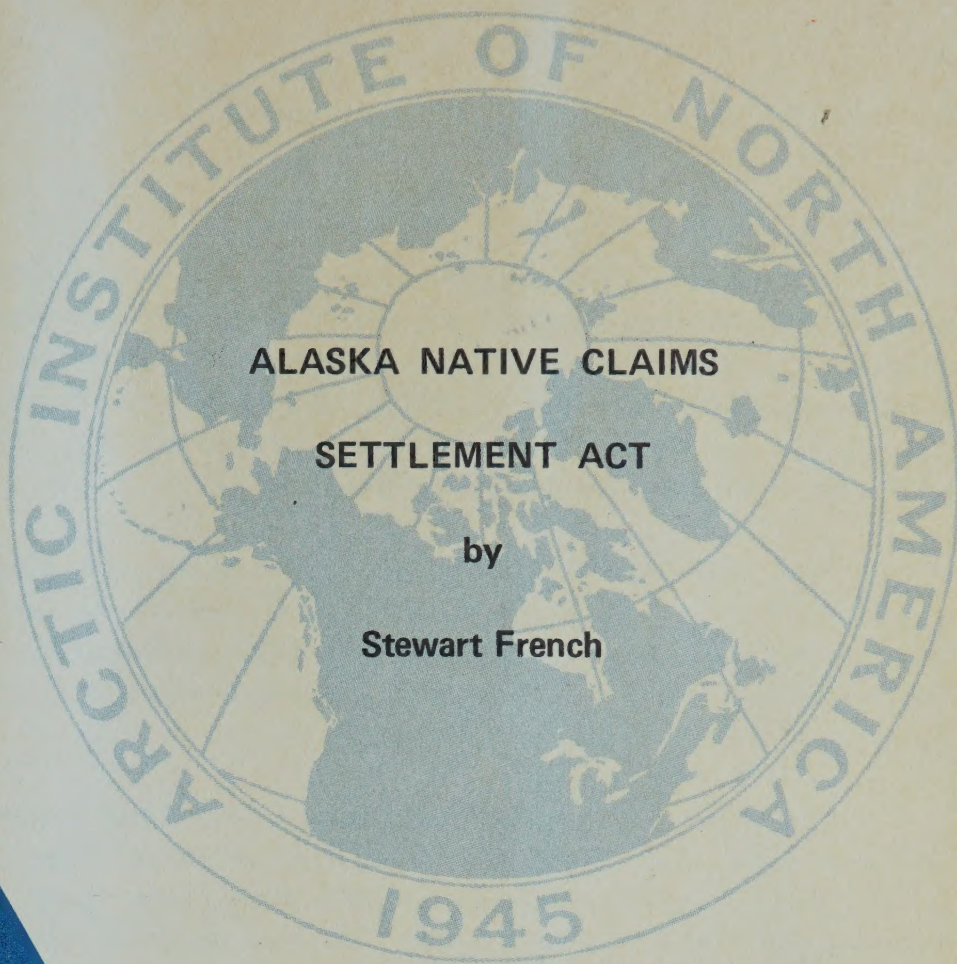




ALASKA NATIVE CLAIMS

SETTLEMENT ACT

by

Stewart French

ARCTIC

DEVELOPMENT

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Foreword

The Arctic Development and Environment (ADE) staff prepares and distributes interpretative articles on various aspects of arctic research, resource development, environmental protection, and related subjects. Several of these, some written by the staff and some by others, are listed elsewhere in this brochure. Others will be added from time to time on an irregular basis.

The ADE staff and the Arctic Institute are pleased at this time to make available Mr. Stewart French's objective, penetrating, overall interpretation of the Alaska Native Claims Settlement Act which he and the ADE staff believe will have profound effects for many years on the course of development in Alaska.

Mr. French is an advisor and consultant to the Arctic Institute and contributes in a scholarly way to several of its programs, including ADE. Research in connection with these has required him to study the Settlement Act in some detail. He has special interest and competence in the appraisal of such legislation as a consequence of many years of experience as Chief Counsel of the U.S. Senate Committee on Interior and Insular Affairs. Through that position he has an unusual grasp and familiarity with matters having to do with Alaska, with public lands and with Indians and Eskimos.

Additionally, throughout the preparation of this analysis, Mr. French was aided and advised by A. G. Ronhovde and John C. Reed, both of whom are familiar, from their special viewpoints, with the Act, with Alaska, and with problems of resource development and their impact on natural environments and indigenous inhabitants.

It is hoped that this interpretation of landmark legislation will be widely helpful to interested students as the provisions of the Act are put into effect and the results begin to appear.

M. E. Britton

Director
Arctic Development and
Environment Program

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THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

by

Stewart French¹

No event since the 1968 Prudhoe Bay oil discovery, and perhaps even Statehood in 1958, has had as great a potential social and economic impact on the people of Alaska -- both Native and non-Native -- as has enactment of the Alaska Native Claims Settlement Act (Public Law 92-203, 85 Stat. 688). The Act is a complex legislative resolution of a 104-year old question and a source of conflict that have been bars to full achievement of the social and economic aspirations of Natives, non-Natives, and the State.²

Basic Provisions

In broad terms the law provides that the Native people of Alaska -- Eskimos, Indians, and Aleuts -- numbering about 53,000³ who reside in Alaska, or approximately one-sixth of the State's population, will receive legal title to 40 million acres of land together with the mineral estate, plus nearly a billion dollars in money to be derived from Federal appropriations and a sharing in revenues from both State and Federal mineral leases. This tremendous grant of land and money clearly will have a far-reaching effect on the State and its residents, particularly on the lives of the Natives, who are described by the Senate Interior Committee in its report on the legislation as being "among the most disadvantaged citizens of the United States in terms of income, employment, educational attainment, life expectancy, health, nutrition, housing, and every important indicator of social welfare" (Senate Report No. 92-405 to accompany S. 35, 1971, p. 72).

¹Consultant, Arctic Institute of North America, formerly Chief Counsel, U.S. Senate Committee on Interior and Insular Affairs.

²This study describes the situation up to July 1972. The situation changes almost daily, and inevitably will be somewhat out of date by the time of publication.

³53,000 is the 1970 census figure. However, passage of the Native Claims Act apparently increased the number of Natives, and as of June 15 1972, enrollment had passed 61,000. Interior officials now are said to expect that 80,000 to 100,000 will claim eligibility for enrollment.

The Natives themselves will have a large and increasing degree of independent control over these vast capital assets of money and land, some of which will be rich in surface resources, such as timber, and in minerals, such as oil and gas, copper, and gold. Implementation of the Act will provide an unparalleled case study on a large scale of the adaptability to a radically changed economic, social, and political environment of several markedly different ethnic groups, which have dealt effectively for centuries with a harsh physical environment and a totally different level of social and economic problems.

The mechanism for the use, development, and control over the lands, resources, and money by the Native people of Alaska -- only a few generations removed from aboriginal existence -- is that relatively modern business creation, the corporation. Two separate kinds of corporations are required by the Act, Regional and Village, with each eligible Native entitled to membership in both the corporation established for his village and in the corporation for the region in which his village is located. As shareholders, the Native people are entitled to a voice in management and a share in the lands, assets, and income which are owned and managed by the corporations. The corporations are incorporated under Alaska State law.

The Act provides for 12 Regional Corporations within the State, which are named in section 7 of the Act, "with each region composed as far as practicable of Natives having common heritage and sharing common interests". A 13th Corporation may be formed for Natives non-resident in Alaska, if a majority so desires, or a non-resident Native may be enrolled in the Regional Corporation in which he has his ethnic origins. It is estimated that some 220 Village Corporations will be formed.

The Regional Corporations must be organized as business-for-profit entities. Each Village Corporation may be organized on a profit or non-profit basis, as the members decide.

An Alaska Native Fund, in which each Native will share as soon as enrollment is complete and the corporations organized, will be made up of grants totalling \$462.5 million from the Federal Treasury, payable over 11 years, plus \$500 million from two percent of the revenues from mineral-leasing activity on both State and Federal lands. A portion of this half-billion dollars will come from minerals revenues which would otherwise be paid over to the State under a Federal law of long standing. This revenue-sharing provision, so to speak, is not retroactive. That is, the State will not pay into the Native fund two percent of the \$900 million it received from the North Slope sale.

The official citation of P. L. 92-203, as set forth in section 1 of the Act, is the "Alaska Native Claims Settlement Act". "Settlement" is the key word, in view of the history and purposes of the legislation. That is, the law extinguishes all claims the Natives may have had -- and such claims covered most of the State -- based on aboriginal use and occupancy of lands and adjacent waters, including aboriginal hunting and fishing rights. The Act sets forth that none of its provisions "shall replace or diminish any right, privilege, or obligation of the United States or of the State of Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska...". Alaska Natives have had full citizenship, legally speaking, in both the Territory and the State and the United States -- a status dating back to 1924.

The Secretary of the Interior is directed to study and report within three years of enactment on all Federal programs designed primarily to benefit Native people. These programs include of course the special Bureau of Indian Affairs education and the Public Health Service programs. Appropriations from the Federal Treasury for special Alaska Native programs have been amounting to \$25 million or more a year.

Some Effects

The Alaska Native Claims Settlement Act inevitably will have effects, economic, political, and social, on the entire State of Alaska, not on the Native people alone, but their non-Native fellow Alaskans as well. Economic impacts are obvious: nearly a half-billion dollars in new direct Federal appropriations will come into the economy. Another half-billion, most of which would otherwise go into the State Treasury, will instead be diverted into non-governmental channels with little public control. Of greater long-range effect, over 100 million acres of land will pass from Federal ownership to the State and the Natives. That is, the Natives will get 40 million acres, and with the termination by the legislation of the land freeze dating back to 1966, in due course the State will be able to go ahead with selection of the remainder of the 103.5 million acres granted by the Alaska Statehood Act of 1958 (P. L. 85-508; 72 Stat. 339). This remainder amounts to approximately 78 million acres.

The Natives will have ownership and control over their lands, although the Act provides they cannot alienate title to them for 20 years. The State is likely to retain in State ownership a substantial portion of its lands, but it is probable that a considerable amount also will pass into private ownership. With money and land available, development of natural resources should be spurred, along with capital improvements, such as housing, transportation (both land and air), and service

industries. Substantial employment opportunities and the establishment of small business enterprises should result.

However, these impacts will not be felt immediately. Before money from the Alaska Native fund becomes available for developmental purposes, and the natives receive title to the lands granted them, a roll of the eligible natives must be prepared by the Secretary of the Interior.⁴ To be eligible, a person must be a citizen of the United States of at least one-fourth degree of Alaska Indian, Eskimo, or Aleut blood, and must have been born on or before, and living on, the date of enactment of the Settlement Act (December 18, 1971). The Secretary has two years in which to prepare the roll, and it appears such a period of time will be required.

The social and political impacts of the Act are not as clear-cut as are the probable economic ones outlined above. But it is reasonable to expect that the educational level will rise along with economic status, particularly among the Native groups. A concomitant result will be an increase in Native political "clout", with an increasing number seeking public office and participating widely and responsibly in community and State affairs.

As mentioned, of primary importance is the termination of the land freeze which began in 1966 and under which the State had been prevented from selection of the lands granted to it under the Statehood Act. The administrative freeze was rigidly formalized early in 1969 in one of the last official acts of Secretary of the Interior Stewart Udall by promulgation of Public Land Order 4582. Secretary Udall's Order was imposed to preserve the status quo and to protect the corpus of the Native claims until a legislative settlement could be worked out. It brought to a virtual standstill the expansion and development of the State's economy, creating the anomalous situation under which, as pointed out by Senator Mike Gravel in the Senate debate on the bill, H. R. 10367, that became the law, the State with the largest land area had the least land available for private use and development.

Termination of the freeze order also removed one of the major impediments to construction of the proposed 800-mile, 48-inch trans-Alaska pipeline from the multi-billion barrel oil fields in the Prudhoe Bay area on the Arctic Ocean to the all-seasons port of Valdez on the southern coast. However, the Native claims settlement does not in and

⁴Some Federal funds have been made available for organization purposes from Federal appropriations.

of itself affirmatively authorize the pipeline; the freeze had prevented use of Federal lands for its construction.

Late in 1971, Secretary Morton withdrew some 5 million acres as a "transportation corridor" for pipelines, roads, and railways stretching from the North Slope to the southern coast. Some of these lands cover Native village lands; others conflict with State selections. The Settlement Act specifically provides in section 17(b) (1) for identification of public easements across Native lands which are "reasonably necessary to guarantee... a full right of public use and access" for transportation, among other public purposes. Also, section 17(d) (3) provides that the Secretary's authority to grant rights-of-way or easements shall not be impaired by the withdrawals.

On May 11, 1972, Secretary Morton announced his decision to approve the application for a permit to construct the pipeline which had been filed by a consortium of oil companies in June of 1969. However, several legal hurdles in the way of judicial determination of actions brought by environmental organizations and by native villages have to be cleared before the permit can be issued and the actual work of laying the huge pipe can start. As stated, the Settlement Act and the pipeline are not directly related other than that the Act terminates controversy over Native rights in the lands to be used, and revokes the freeze imposed by Secretary Udall and continued by his successors, including former Governor of Alaska Walter J. Hickel.

Natural Resources Development

Both the State and the Natives need money, and thus it is probable that development will be accelerated under local control. Certainly the slowness with which development has taken place under Federal control in Washington has engendered sharp criticism, and was a cogent factor in the long battle for Statehood.

Also, in-lieu selection for subsurface rights, as distinct from the surface estate, in lands withdrawn or reserved for national defense purposes and lands within the National Wildlife Refuge System will have to be made as close to those withdrawn areas as is feasible. Development of oil and gas on these in-lieu lands may result in drainage from the Federal areas. In that event, some of the oil and gas resources of NPR 4 and the National Arctic Wildlife Range may have to be developed at some point in the future to prevent loss of Federal property.

The increase in revenues to both State and Native groups, with concomitant increase in jobs, living standards, and education is likely to stimulate still further development. However, all development will take place under applicable State and Federal anti-pollution and environ-

mental control laws. Revenues originating from the Alaska Native Fund are not subject to any form of Federal, State, or local taxation.

Shortly after passage of the Settlement Act, certain asserted ambiguities in the wording of the law were made the basis of the contention by Native groups that subsurface rights within NPR 4 were included in the grants to the Native Regional Corporation. Amendatory legislation to correct this and other possible ambiguities was introduced (S. 3222 and H. R. 12386). Public hearings were held by the Interior Committee in the Senate on March 2, 1972. The Attorney General of Alaska and other State officials joined with Native spokesmen in opposition to the proposed changes, and no action has been taken. The opposition was based on the concept that enactment of the Settlement Act on December 18, 1971 created certain vested rights, and that the proposed changes would constitute a taking of property without just compensation.

Subsequently, Secretary Morton issued a Public Land Order (P. L. O. 5183; 37 F. R. 5587) withdrawing subsurface minerals in NPR 4 from any form of appropriation. But statutory enactment supersedes a Public Land Order, and, if Public Law 92-203 is judicially interpreted in accordance with the Natives' contention, substantial oil and gas deposits within the Reserve would be open to selection by the North Slope Regional Corporation.

Another event that has taken place since enactment that well may have impact on the development of the North Slope oil and gas fields and other minerals is the establishment of the North Slope Borough. A "borough" is a form of political organization authorized by Alaska State law, and it is endowed with authority to levy taxes within the borough. The North Slope Borough extends for some 300 miles and contains some 56.5 million acres. It includes within its boundaries all of the oil and gas discoveries in that vast area. Formation of the Borough was opposed in a court action by a group of the oil companies, with the reported blessing of Governor Egan's administration which has its own plans for taxation of the North Slope producers and the pipeline users, but the establishment of the Borough has been confirmed by the Alaska Supreme Court.

An ancillary post-enactment happening that may have an effect on resource development is the conflict between Federal and State governments over land selection and withdrawal priorities. As previously noted, section 6 of the Statehood Act of 1958 grants to the State the right to select in excess of 103 million acres of Federal public lands. Prior to Secretary Udall's 1966 land freeze, which suspended State selections as well as other forms of appropriation of Federal lands on the basis

that the corpus of the Native claims must be protected until a legislative resolution of the controversy could be worked out, the State had received patents from the grant to approximately 5.5 million acres; selections of 8.3 million additional acres had been tentatively approved; and applications for 11.5 million acres were pending.

The 1971 Alaska Native Claims Settlement Act revoked the Secretarial land-freeze order, but in its turn imposed a legislative freeze for a period of 90 days after enactment in which the Secretary was directed to "review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to insure that the public interest in these lands is properly protected".

On December 18, 1971, the Alaska Settlement Act became law. On January 22, 1972, Governor Egan filed, under established procedures, State selections under the Statehood Act on some 76 million acres. In early March, pursuant to the Settlement Act, Secretary Morton issued a series of Public Land Orders which withdrew more than 200 million acres, or about two-thirds of all the Federally owned land in Alaska. Some of the withdrawals included areas already withdrawn under other authority.

The State promptly challenged in the United States District Court in Anchorage the Secretary's withdrawal orders, pointing out in its suit that more than half of the State's January 22 selections were included in the withdrawals, and that the State had a prior right.

Ninety-nine million of the more than 200 million acres withdrawn is available to the Native Village and Regional Corporations for selection under the Settlement Act. Once the Natives have selected their lands, the unselected portions will continue under Federal management. Some of them may be made available for State selection.

The State-Federal conflict over the withdrawals is a direct outgrowth of the Native Claims Settlement Act, and, while much of the land in dispute is regarded as primarily valuable for scenery and recreation, the controversy may delay settlement of the Settlement Act.

Environmental Protection

Legislation for resolution of the Alaska Native Claims issue had been before Congress for several years prior to enactment of Public Law 92-203. By 1971, environmental protection had developed into a major national concern. Alaska has some of the most majestic natural beauty, unspoiled wilderness, and outstanding fish and wildlife habitats in the world.

In the extensive hearings on S. 35, 92nd Congress, the Alaska Native Claims bill sponsored by Senator Henry M. Jackson, who pioneered the legislation, and on H. R. 10367, the companion measure in the House, which was the bill that became the law, as well as their predecessor bills in previous Congresses, spokesmen for environmentalist groups were heard at length. Much time, thought, and discussion were devoted in the Floor debates, and in the Conferences between the two Houses, to environmental problems that conceivably might arise out of enactment of Native Claims legislation.

How well the legislators succeeded in their earnest efforts to protect the environment of Alaska is, understandably, subject to some difference of opinion. But the concensus seems to be that, with respect to the law itself, they succeeded fairly well, while at the same time permitting economic development, essential to the Natives and the State as a whole, to go forward.

As pointed out, all developmental activity will be subject to State and Federal environmental control laws and regulations. Additional special safeguards will be required in the construction and operation of the proposed pipeline.

The law itself establishes a Joint Federal-State Land Use Planning Commission that has wide investigative and advisory powers for land use in general, including areas best suited for parks, game refuges, and other public uses. Section 17(d) (2) (A) directs the Secretary to withdraw, within nine months of enactment, up to 80 million acres which he "deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems". The withdrawals under that direction were included in the series of withdrawals already mentioned.

The Secretary is directed to report to Congress every six months over a two-year period his recommendations with respect to areas that should be retained as a part of the Federal domain. The first report has been made. If Congress does not act on these recommendations within five years after their submission, the lands then become open to selection by the State or to appropriation under the public land laws (homesteading, mining, and the like). The State also has broad plans for a State system of parks and recreational areas.

Thus, under the Settlement Act, it is probable that tens of millions of acres of Alaska's pristine wilderness will be permanently preserved, by one method or another, for public use and enjoyment.

Historical Background

The Native Claims issue brings up the difficult historical and philosophical question of how nations and peoples acquire sovereignty and dominion over lands. Chief Justice John Marshall in 1823 pointed out that the historical process has been that of discovery, conquest, and purchase. Certainly this was the pattern followed in the Lower 48 (Johnson and Graham's Lessees v. William McIntosh; 8 Wheaton 543).

Alaska was purchased from Czarist Russian in 1867 for \$7,200,000 by treaty proclaimed by President Andrew Johnson, although his (and President Lincoln's) Secretary of State, William Henry Seward, was the prime mover. The status of the lands "occupied" and used for hunting, fishing, and berrying by the 30,000 or so Natives under the Russians has long been a matter of controversy. Such aboriginal use and occupancy, although of a somewhat nomadic nature, had been one of the bases for the Natives claims to ownership of virtually the entire area of the State. In the Tee-Hit-Ton case, for example, which went all the way to the Supreme Court of the United States (Tee-Hit-Ton Indians v. U.S., 848 U.S. 272 (1955)), the Indians contended that the Russians had recognized them as an independent group with full ownership of the lands. But the United States Court of Claims had found, and the Supreme Court approved, that --

"Such land as the Russian Government wanted for the use of its licensees it took. . . if such tribal property interest in lands as existed under Russian sovereignty survived the Treaty of 1867, that interest under American sovereignty was substantially identical in nature with that of the American Indians." (The Tee-Hit-Ton Indians, an Identifiable Group of Alaska Indians v. The United States. 128 Ct. Cl. 82)

The Treaty of Cession provided in Art. III that --

". . . the uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country." (15 Stat. 539)

In any event, the Russians were not interested in land as such, but rather in animal products of the land and waters -- the fur-bearing animals. The Russian American Company was in form a commercial fur and trading monopoly, but in practice it also functioned as the only governmental agency ever set up in Alaska by the Russians.

In 1884, the Congress enacted legislation establishing a civil government for Alaska and provided:

"That the Indians or other persons in said District shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress." (23 Stat. 24)

The Court of Claims found that "The language would seem to mean that the physical status quo was to be preserved, but the question of legal rights was reserved for future determination."

The Act of June 6, 1900 simplified the language, if not the problem, somewhat by stating "The Indians shall not be disturbed in the possession of any lands actually in their use or occupation."

Thus, the situation, in which Native rights of use and occupancy were recognized, but the legal status of the lands so used and occupied was left in a legal vacuum, continued for 104 years -- from the Treaty of 1867 to the Alaska Native Claims Settlement Act of 1971. In 1955, the Supreme Court had ruled in the Tee-Hit-Ton case, cited above, that a taking by the United States of Alaska Native lands held under claim of aboriginal right was not such a taking as to require compensation under the Fifth Amendment.

That is, the Supreme Court ruled in effect, the Natives did not have legal ownership rights, even in the lands they used and occupied, as the term is understood in our law. However, there can be no question but that Native rights of occupancy and use have been recognized by law enacted by Congress at least since 1884. Such recognition was reaffirmed, strongly, in the Alaska Statehood Act of 1958 (P. L. 85-508; 72 Stat. 339).

As pointed out in the Senate Interior Committee report on S. 1830, 91st Congress, which passed the Senate July 15, 1970, but died before the House Interior Committee:

"The legal history of Alaska Native Claims is not so much one of action but of inaction, postponement, and preservation of the controversy for resolution at a later time. It is easy to postpone difficult problems -- particularly legal ones which have far-reaching social and economic implications for a whole State. The postponement of determining either the merits or the extent

of the claims has complicated the land claims problems and added to social, legal, and institutional issues which must be surmounted in its resolution." (Sen. Rpt. 91-925)

Despite all of the pious sentiments expressed in the Treaty and in the several Acts of Congress, active consideration to settle the Alaska Native Claims did not begin until almost nine years after the adoption of the Statehood Act, and then not until oil was discovered in vast quantities on the North Slope. Thus settlement became an economic issue as well as a legal and moral one.

In this connection it is pertinent to note, briefly, some of the differences between the relationships of the Indians and non-Indians in the Lower 48 and the Alaska Natives and non-Natives. Indians of the contiguous States were regarded first as independent and then as "dependent" nations. In Alaska, neither the Russians nor the Americans entered into treaty relationships with the native inhabitants.

In 1872, Congress in an obscure "rider" to an appropriation bill terminated the independent-dependent nation approach with respect to all Indians, but Indian lands in the Lower 48 were continued to be acquired by at least a form of purchase, and other lands were set aside for them as reservations.

Thus, the controversies between whites and Indians in the Lower 48 have been based on treaty rights as well as moral and ethical obligations. With respect to the Alaska Natives, however, the obligations have been primarily moral and ethical.

With a few exceptions, the reservation system never was extended to Alaska. Lands were withdrawn for the creation of such reservations, but little use was made of them for the purpose.

In sum, the status of aboriginal claims in Alaska is not burdened as in the Lower 48 with a history of conquest or of inequitable and broken treaties between the Federal government and tribal groups, nor by large scale, gross cheating of the Indians by white settlers with concurrence in many instances by Federal officials.

Provisions of the Act

The basic provisions of the Alaska Native Claims Settlement Act have been discussed in broad outline. There follows a more detailed exposition and explanation of how some of the major provisions are likely to be put into effect. The facts and figures are taken directly

from the official explanation published with the Conference Report on H. R. 10367, 92nd Congress. A Conference Report is the text of the bill as agreed upon between the House and the Senate. In the Alaska Native Claims bill, the House acted first in passing its version. The Senate then amended the House measure to conform with its ideas. Both Houses thereupon appointed Members to act as conferees. The conferees met on a number of occasions and worked out the compromise that is set forth in the Conference Report that became the law.

The Conference Report is accompanied by an explanation that also is an official document (Senate Report 92-581 in this case) and is regarded as setting forth the intent of Congress in enacting the legislation. It is the primary document of interpretation, second only to the text of the law itself. The explanation states:

"1. Land

(a) The Natives will receive title to a total of 40 million acres, both surface and subsurface rights, divided among the some 220 villages and 12 Regional Corporations.

(b) The villages will receive the surface estate only in approximately 18 1/2 million acres of land in the 25 township areas surrounding each village, divided among the villages according to population.

(c) The villages will receive the surface estate in an additional 3 1/2 million acres, making a total of 22 million acres, divided among the villages by the Regional Corporations on equitable principles.

(d) The Regional Corporations will receive the subsurface estate in the 22 million acres patented to the villages, and the full title to 16 million acres selected within the 25 township areas surrounding the villages. This land will be divided among the 12 Regional Corporations on the basis of the total area in each region, rather than on the basis of population.

(e) An additional 2 million acres, which completes the total of 40 million, will be conveyed as follows:

(1) Existing cemetery sites and historical sites will be conveyed to the Regional Corporations.

(2) The surface estate in not more than 23,040 acres, which is one township will be conveyed to each of the native groups that is too small to qualify as a Native village. The subsurface estate will go to the Regional Corporations.

(3) The surface estate in not more than 160 acres will be conveyed to each individual Native who has a principal place of residence outside the village areas. The subsurface estate will go to the Regional Corporations.

(4) The surface estate in not to exceed 23,040 acres will be conveyed to Natives in four towns that originally were Native villages, but that are now composed predominantly of non-Natives. These conveyances will be near the towns, but far enough away to allow for growth and expansion of the towns. The subsurface estate will go to the Regional Corporations.

(5) The balance of the 2 million acres, if any, will be conveyed to the Regional Corporations.

(f) If the entire 40 million acres cannot be selected from the 25 township areas surrounding the villages because of topography or restrictions on the acreage which may be selected from within the Wildlife Refuge System, lieu selection areas will be withdrawn by the Secretary of the Interior as close to the 25 township areas as possible.

"2. Money

The Natives will be paid \$462,500,000 over an eleven-year period from funds in the United States Treasury, and an additional \$500,000,000 from mineral revenues received from lands in Alaska hereafter conveyed to the State under the Statehood Act, and from the remaining Federal lands, other than Naval Petroleum Reserve Numbered 4, in Alaska. Most of the \$500,000,000 paid to the Natives would otherwise be paid to the State under existing law, and the State has agreed to share in the settlement of Native claims in this manner.

"3. Corporate organization

(a) The Natives in each of the Native villages will be organized as a profit or non-profit corporation to take title to the surface estate in the land conveyed to the village, to administer the land, and to receive and administer a part of the money settlement.

(b) Twelve Regional Corporations will be organized to take title to the subsurface estate in the land conveyed to the villages, and full title to the additional land divided among the Regional Corporations. The Regional Corporations will also receive the \$962,500,000 grant, divided among them on the basis of Native population. Each Regional Corporation must divide among all twelve Regional Corporations 70 percent of the mineral revenues received by it.

Each Regional Corporation must distribute among the Village Corporations in the region not less than 50 percent of its share of the \$962,500,000 grant, and 50 percent of all revenues received from the subsurface estate. This provision does not apply to revenues received by the Regional Corporations from their investment in business activities.

For the first five years, 10 percent of the revenues from the first two sources mentioned above must be distributed among the individual Native stockholders of the corporation.

(c) Natives who are not permanent residents of Alaska may, if they desire, organize a 13th Regional Corporation, rather than receive stock in one of the 12 Regional Corporations. The 13th Regional Corporation will receive its pro rata share of the \$962,500,000 grant, but it will receive no land and will not share in the mineral revenues of the other Regional Corporations.

"4. Other major provisions

(a) Land use planning

A Joint Federal-State Land Use Planning Commission is established. The Planning Commission has no regulatory or enforcement functions, but has important advisory responsibilities.

(b) National interest areas

The Secretary of the Interior is authorized to withdraw from selection by the State and Regional Corporations (but not the Village Corporations) and from the operation of the public land laws up to, but not to exceed, 80 million acres of unreserved lands which, in his view, may be suitable for inclusion in the National Park, Forest, Wildlife Refuge, and Wild and Scenic River Systems.

(c) Interim operation of the public land laws

The Secretary is authorized, where appropriate, under his existing authority, to withdraw public lands and to classify or reclassify such lands and to open them to entry, location and leasing in a manner which will protect the public interest and avoid a 'land rush' and massive filings on public lands in Alaska immediately following the expiration of the so-called 'land freeze'.

(d) Reservation of easements

Appropriate public access and recreational site easements will be reserved on lands granted to Native Corporations to insure that the larger public interest is protected.

(e) Attorney and consultant fees

Fees to attorneys and consultants are limited to \$2 million. All contracts based on a percentage fee related to the value of the lands and revenues granted by this Act are declared unenforceable.

(f) Valid existing rights

All valid existing rights, including inchoate rights of entry-men and mineral locators, are protected.

(g) National petroleum reserve No. 4 and wildlife refuges

No subsurface estate is granted in Naval Petroleum Reserve Numbered 4 or in the National Wildlife Refuges, but an in lieu selection to subsurface estate in an equal amount of acreage outside these areas is provided for the Regional Corporations.

(h) National forests

Appropriate limitations are placed on the amount of lands which may be granted from National Forests to Native villages located in the National Forests."

Concluding Observations

The Alaska Native Claims Settlement Act, while admittedly a compromise and far from perfect, nevertheless marks a great moral and ethical advance over the white man's dealings with the native inhabitants of the Lower 48. It also is a great attainment by the Alaska Natives themselves because enactment was the result in no small part of the best organized effort ever made by native Americans. Historically, the Eskimos, Indians, and Aleuts have had few contacts with each other. With no common language and vast distances of harsh wilderness separating them, for the most part, there was little communication.

Their unity with respect to the Claims bill is in itself a remarkable achievement. Hopefully that unity can be preserved for the very difficult tasks of managing for their common good the riches that will be theirs.

The Act is the most generous settlement ever granted by a government to a relatively powerless minority.

The Settlement Act is a complex settlement of a complex situation. Some of its provisions are susceptible to differing interpretations, the more so because there are three parties-at-interest: The Natives, the State of Alaska, and the Federal government, which still has vast riches and vast responsibilities in Alaska. Many problems have arisen already and many more will arise in the implementation of the law.

Enactment required goodwill and broad statesmanship. Fulfillment of the spirit and letter of this historic legislation will require the same great qualities.

The Alaska Native Claims Settlement Act is monumental legislation of which all Americans, Native and non-Native, can be proud.

ADE Reports

Copies of many of the reports listed below are available by contacting the Arctic Institute of North America at:

1619 New Hampshire Ave., N.W.
Washington, D.C. 20009

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1. A report on Alaskan ecology and oil development. The report consists of copies of three lectures delivered at the Tenth Annual Meeting of the Arctic Institute of North America in Washington, D.C., on February 18, 1970, as follows:
 - a. Ecological strategies or technological tragedy in the Arctic - Philip L. Johnson, School of Forest Resources, University of Georgia.
 - b. Community development in harmony with the environment - Joseph H. FitzGerald, Manager of Community Affairs, Atlantic Richfield Company.
 - c. The role of Naval Petroleum Reserve No. 4 on the North Slope - Emory C. Smith, Captain, USN, Director, Naval Petroleum and Oil Shale Reserves.
2. A report of the Arctic Institute Conference on Arctic Research and Resource Development in Rensselaerville, New York, May 8, 9, and 10, 1970.
3. Effects of oil development in arctic America - John C. Reed, Biological Conservation, vol. 2, no. 4, pp. 56-60, July 1970.
4. Oil and the arctic tundra - John C. Reed, National Parks and Conservation Magazine, vol. 44, no. 278, pp. 4-7, Nov. 1970.
5. Annual report of the Arctic Development and Environment Program for 1970.
6. The dilemma. Copies of three lectures by staff members of the Arctic Development and Environment Program given at the St. James Literary Society, Montreal, P.Q., January 12, 1971, with an introduction by Eric Gourdeau, as follows:
 - a. Human aspects: Man's potential gains and losses - Eric Gourdeau.
 - b. Use and abuse of environment - Max. E. Britton.
 - c. Resource development - a must - John C. Reed.
7. Time of decision - John C. Reed and M.E. Britton, Arctic, vol. 24, no. 1, pp. 3-8, March 1971.
8. The challenges of resource development and environmental protection - Hollis M. Dole, Asst. Sect. of the Interior for Mineral Resources. Speech before the Eleventh Annual Meeting of the Arctic Institute of North America, Washington, D.C., April 13, 1971.
9. Special problems of the arctic environment - M.E. Britton. Presentation to the Workshop on Canadian-United States Maritime Problems, sponsored by The Law of the Sea Institute, University of Rhode Island; the Canadian Institute of International Affairs; and the University of Toronto, School of Law, June 1971. This paper is to be published as a part of the proceedings of the Workshop.
10. Oil development and conservation in arctic America - John C. Reed. Biological Conservation, in press.



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